

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1202 be amended to read as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 16-41-37-0.5 IS ADDED TO THE INDIANA
- 3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 2005]: **Sec. 0.5. This chapter does not apply**
- 5 **to the following:**
- 6 **(1) A private home or residence, unless the home or residence**
- 7 **is:**
- 8 **(A) used to provide child care as a licensed child care home**
- 9 **under IC 12-17.2-5 or adult day care; or**
- 10 **(B) a health care facility (as defined by IC 16-18-2-161(a)),**
- 11 **including a weight loss clinic.**
- 12 **(2) A private motor vehicle.**
- 13 **(3) A hotel or motel room that is rented to a guest and that is**
- 14 **designated as a smoking room. However, not more than**
- 15 **twenty-five percent (25%) of the total number of rooms**
- 16 **rented to guests may be designated as smoking rooms. The**
- 17 **status of a room as a smoking or nonsmoking room may not**
- 18 **be changed after June 30, 2005, except to add additional**
- 19 **nonsmoking rooms.**
- 20 **(4) A building, a room, or an area used primarily for the sale**
- 21 **of alcoholic beverages for consumption by guests on the**
- 22 **premises and in which the sale of food is incidental to the sale**
- 23 **of alcoholic beverages, including a bar, tavern, nightclub, or**
- 24 **cocktail lounge.**
- 25 **(5) A retail establishment that has as its primary purpose the**

1 sale of tobacco products if the retail establishment:

2 (A) does not allow an individual who is less than eighteen
3 (18) years of age to enter the retail establishment; and

4 (B) does not allow smoke from the retail establishment to
5 infiltrate into areas where smoking is prohibited.

6 (6) A private and semiprivate room of a health facility licensed
7 under IC 16-28 that is occupied by one (1) or more persons
8 who are all smokers and have requested in writing to be
9 placed in a room where smoking is permitted, if the smoke
10 from the room does not infiltrate into areas where smoking is
11 prohibited.

12 (7) A building owned and operated by a social, fraternal, or
13 religious organization when the building is:

14 (A) used by the membership of the organization or a
15 member's guests or family; or

16 (B) rented for a private social function when the seating
17 arrangements are under the control of the sponsor of the
18 function.

19 (8) Places of employment that are in outdoor areas.

20 (9) A theatric production site, if the smoking by the performer
21 is an integral part of the performance.

22 SECTION 2. IC 16-41-37-1.5 IS ADDED TO THE INDIANA
23 CODE AS A NEW SECTION TO READ AS FOLLOWS
24 [EFFECTIVE JULY 1, 2005]: Sec. 1.5. As used in this chapter,
25 "enclosed area" means the space between a floor and ceiling that
26 is enclosed on all sides by solid walls or windows, exclusive of
27 doorways, which extend from the floor to the ceiling.

28 SECTION 3. IC 16-41-37-2 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. As used in this
30 chapter, "public building" place" means an enclosed structure or the
31 part of an enclosed structure that is one (1) of the following:

32 (1) Occupied by an agency of state or local government.

33 (2) Used as a classroom building or a dining area at a state
34 educational institution (as defined in IC 20-12-0.5-1).

35 (3) Used as a public school (as defined in IC 20-10.1-1-2).

36 (4) Licensed as a health facility under IC 16-21 or IC 16-28.

37 (5) Used as a station for paid firefighters.

38 (6) Used as a station for paid police officers.

39 area used by the general public, regardless of whether an
40 admission fee is charged, including the following:

41 (1) All enclosed areas, including buildings and vehicles,
42 owned, leased, occupied, or operated by an agency of the state
43 or local government.

44 (2) Areas available to and customarily used and patronized by
45 the general public in businesses and nonprofit entities,
46 including service lines and retail service and commercial
47 establishments.

(3) Retail stores, department stores, and shopping malls.

(4) Banks and financial institutions.

(5) Beauty salons and barber shops.

(6) Laundromats.

(7) Retail food production and marketing establishments.

(8) Aquariums, galleries, libraries, and museums.

(9) Bingo facilities when a bingo game is in progress.

(10) Elevators.

~~(7)~~ **(11) Licensed as a child care center centers or child care home homes or registered as a child care ministry ministries under IC 12-17.2.**

~~(8) Licensed as a hospital under IC 16-21 or a county hospital subject to IC 16-22.~~

~~(9) Used as a provider's office.~~

(12) Adult day care facilities.

(13) Lobbies, hallways, and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, health facilities licensed under IC 16-28, and other multiunit residential facilities.

(14) Polling places.

(15) Public mass transportation facilities, including buses, taxicabs, and trains and ticket, boarding, and waiting areas of public transportation depots.

(16) Buildings, structures, and areas used or held out to the public as having food available for purchase to be consumed on the premises, including restaurants, coffee shops, cafeterias, cafes, luncheonettes, sandwich stands, soda fountains, and the bar area within a restaurant area.

(17) Rooms, chambers, places of meeting or public assembly, including school buildings.

(18) Public and nonpublic schools, vocational schools, and private educational institutions.

(19) Sports arenas, including enclosed places in outdoor arenas.

(20) Facilities, including theaters, that are open to the public and are primarily used or designed for the purpose of exhibiting a motion picture, stage drama, musical recital, dance, lecture, or similar performance.

SECTION 4. IC 16-41-37-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. As used in this chapter, "smoking" means the:

(1) carrying or holding of a lighted cigarette, cigar, pipe, or any other lighted smoking equipment;

(2) act of lighting or leaving a lighted or smoldering cigarette, cigar, pipe, or any other lighted smoking equipment; or

(3) the inhalation or exhalation of smoke from any lighted

1 smoking equipment.

2 SECTION 5. IC 16-41-37-4.5 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2005]: **Sec. 4.5. (a) Smoking is prohibited in**
5 **all public places and areas declared to be a nonsmoking area under**
6 **subsection (b).**

7 **(b) The owner, operator, manager, or other person in control of**
8 **an establishment, a facility, or an outdoor area may declare that**
9 **the entire establishment, facility, or outdoor area as a nonsmoking**
10 **area.**

11 SECTION 6. IC 16-41-37-6 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. ~~(a) The owner,~~
13 ~~operator, manager, or official in charge of a public building place or~~
14 ~~an area declared to be a nonsmoking area under section 4.5(b) of~~
15 ~~this chapter shall do the following:~~

16 ~~(1) post conspicuous signs at every entrance that read "Smoking~~
17 ~~Is Prohibited By State Law" Except In Designated Smoking~~
18 ~~Areas" or other similar language.~~

19 ~~(2) Request persons who are smoking in violation of section 4 of~~
20 ~~this chapter to refrain from smoking.~~

21 ~~(3) Remove a person who is smoking in violation of section 4 of~~
22 ~~this chapter and fails to refrain from smoking after being~~
23 ~~requested to do so.~~

24 ~~(b) The proprietor of a restaurant shall, under sections 4 and 5 of this~~
25 ~~chapter, post conspicuous signs at each entrance to the restaurant,~~
26 ~~informing the public of the establishment's smoking policy.~~

27 SECTION 7. IC 16-41-37-6.5 IS ADDED TO THE INDIANA
28 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
29 [EFFECTIVE JULY 1, 2005]: **Sec. 6.5. (a) This chapter may be**
30 **enforced by the state department or a law enforcement officer,**
31 **including an enforcement officer of the alcohol and tobacco**
32 **commission.**

33 **(b) An individual may register a complaint for a violation of this**
34 **chapter with the state department.**

35 **(c) The state department and the alcohol and tobacco**
36 **commission shall inspect a facility or establishment for compliance**
37 **with this chapter when providing any other inspection required by**
38 **law.**

39 **(d) The owner, operator, manager, or other person in control of**
40 **a public place or an area declared to be a nonsmoking area under**
41 **section 4.5(b) of this chapter shall inform persons who violate this**
42 **chapter of the requirements under this chapter.**

43 SECTION 8. IC 16-41-37-7.5 IS ADDED TO THE INDIANA
44 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
45 [EFFECTIVE JULY 1, 2005]: **Sec. 7.5. (a) A person who violates this**
46 **chapter commits a Class C infraction. Notwithstanding**
47 **IC 34-28-5-4(c), a civil judgment for an infraction committed under**

1 this chapter is a civil penalty of fifty dollars (\$50).

2 (b) An owner, an operator, a manager, or another person in
3 control of a public place or an area declared to be a nonsmoking
4 area under section 4.5(b) of this chapter who violates this section
5 commits a Class C infraction. Notwithstanding IC 34-28-5-4(c), a
6 civil judgment for an infraction committed under this section must
7 be imposed as follows:

8 (1) If the person has not been cited for a violation of this
9 section in the previous year, a civil penalty of one hundred
10 dollars (\$100).

11 (1) If the person has had one (1) violation in the previous year,
12 a civil penalty of two hundred dollars (\$200).

13 (3) If the person has had two (2) or more violations in the
14 year, a civil penalty of five hundred dollars (\$500).

15 SECTION 9. IC 16-41-37-8.5 IS ADDED TO THE INDIANA
16 CODE AS A NEW SECTION TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2005]: **Sec. 8.5. A person may not discharge,**
18 **refuse to hire, or in any manner retaliate against an employee,**
19 **applicant for employment, or customer because the employee,**
20 **applicant for employment, or customer enforces or exercises any**
21 **right under this chapter.**

22 SECTION 10. THE FOLLOWING ARE REPEALED
23 [EFFECTIVE JULY 1, 2005]: IC 16-41-37-2.3; IC 16-41-37-2.7;
24 IC 16-41-37-3.1; IC 16-41-37-4; IC 16-41-37-5; IC 16-41-37-7;
25 IC 16-41-37-8.

26 SECTION 11. [EFFECTIVE JULY 1, 2005] (a) **The legislative**
27 **services agency shall prepare legislation for introduction in the**
28 **2006 session of the general assembly to make conforming changes**
29 **to statutes as needed to reconcile the statutes with this act.**

30 (b) **This SECTION expires June 30, 2007.**

(Reference is to HB 1202 as printed February 23, 2005.)

Representative Orentlicher